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EXAMINER

GREEN, BRIAN

ART UNIT PAPER NUMBER

3611

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/626,082	Applicant(s) EBY ET AL. ✓	
	Examiner Brian K. Green	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

4

DETAILED ACTION***Drawings***

The proposed drawing correction to figure 1 filed on Jan. 6, 2005 has not been approved since the addition of the foldable stand (13) is considered to be new matter. The original specification fails to provide support for the stand (13) as shown in figure 1.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the easel defined in claims 10-12 and 26 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to because in figure 1 the hole/opening in the lower portion of the flexible sheet (12) should be labeled with a numeral and lead line. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Stating in claim 1, line 4, and claim 19, line 7, that the first ply foldably connected to a second ply to form a "closed" interior.

Claim Objections

Claims 3 and 19 are objected to because of the following informalities: In claim 3, lines 1-2, there is no antecedent basis for “the first and second mounting holes”, a suggested correction is to have claim 3 depend upon claim 2. In claim 19, line 7, “ a first and second plies” should apparently be “first and second plies”. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1-12 and 19-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 4-5 and claim 19, lines 7-8, stating that the first and second plies form a closed interior is misdescriptive since the interior is not “closed”, i.e. the plies form a pocket which is open at one end.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19 and 21-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Eckstein et al. (U.S. Patent No. 4,085,534).

Eckstein et al. shows in figures 1-2 a cascable file jacket comprising a flexible substrate (9) having first and second surfaces, a file pocket adjacent to the first surface (in figure 1, the first surface is considered to be the back surface of substrate 9 and can not

Art Unit: 3611

be seen in figure 1) and including a first ply (3) connected (the tab 4 is folded and received within an opening 5 in the second ply) to a second ply (3, an adjacent ply to the first ply), a first tab (6) formed integrally to the first ply and adapted to fixedly engage the file pocket to the second surface (the front surface shown in figure 1 is considered to be the second surface), and a second tab formed integrally to the second ply and adapted to expandably engage the file pocket to the second surface. The upper end of Eckstein et al. is considered to be a "narrow" end and includes a plurality of holes (see figure 1). In regard to claim 21, Eckstein et al. shows in figure 1 that the second end also includes a horizontal mounting hole. In regard to claim 22, as broadly defined, the upper end of the first ply is considered to be a "label surface". In regard to claim 23, Eckstein et al. shows a third tab (4). In regard to claim 24, as broadly defined, a portion of the tab (6) and substrate 9 can pivot slightly relative to the clamping bars (8) which is considered to form an expandable portion and the rest of the tab (6) is secured to the substrate by the clamp (8). In regard to claim 25, Eckstein et al. shows in figure 1 the idea of attaching additional expanding file pockets.

Claims 1,2,4,5, and 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Young (U.S. Patent No. 4,226,039).

Young shows in figures 1-5 a cascable file jacket comprising a flexible substrate (2) having first and second surfaces, a file pocket adjacent to the first surface (in figure 2, the first surface is considered to be the front surface of substrate 2) and including a first ply (18) foldably connected to a second ply (19), a first tab (29) formed integrally to the first ply and adapted to fixedly engage the file pocket to the second surface (the surface

Art Unit: 3611

forming the recess which receives the tabs from the first and second plies), and a second tab (29) formed integrally to the second ply and adapted to expandably engage the file pocket to the second surface. In regard to claim 2, Young shows first and second mounting holes (13). In regard to claim 4, Young shows in figure 2 a third mounting hole (13). In regard to claim 5, the file pocket is "adapted" to accept at least one piece of 8.5 by 11.0 inch paper. In regard to claim 8, the first and second tabs (29,29) are fixed to the substrate. Young discloses using heat to affix the tabs, see column 2, lines 58-66. Further, the particular method used to attach the tabs is not given patentable weight in an article. In regard to claim 9, as broadly defined, when the second ply is folded it includes a label portion (21 or the upper edge of the second ply). In regard to claims 10 and 11, Young shows an easel (7).

Claims 1,2,5,8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Schweinsberg (U.S. Patent No. 4,085,535).

Schweinsberg shows in figures 1-4 a cascable file jacket comprising a flexible substrate (2) having first and second surfaces, a file pocket adjacent to the first surface (in figure 1, the first surface is considered to be the front surface of substrate 2) and including a first ply (the front panel of member 9) foldably connected to a second ply (the back panel of member 9), a first tab (the portion projecting into the slot of member 2, see figure 1) formed integrally to the first ply and adapted to fixedly engage the file pocket to the second surface (the surface forming the recess which receives the tabs from the first and second plies), and a second tab (the portion of the second panel of 9 which projecting into the slot of member 2) formed integrally to the second ply and adapted to expandably

Art Unit: 3611

engage the file pocket to the second surface. In regard to claim 2, Schweinsberg shows first and second mounting holes (4). In regard to claim 5, the file pocket is "adapted" to accept at least one piece of 8.5 by 11.0 inch paper. In regard to claim 8, the first and second tabs are fixed to the substrate. The particular method used to attach the tabs is not given patentable weight in an article. In regard to claim 9, the second ply is folded at 11 to form a label portion.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eckstein et al. (U.S. Patent No. 4,085,534) in view of Able (U.S. Patent No. 6,349,491).

Eckstein et al. does not disclose placing a grommet in each of the first and second mounting holes. Able shows in figure 1 the idea of placing grommets (40) in the first and second mounting holes. In view of the teachings of Able it would have been obvious to one in the art to modify Eckstein et al. by placing a grommet in each of the first and second mounting holes since this would help to prevent the flexible sheet from tearing in the area around the mounting holes.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eckstein et al. (U.S. Patent No. 4,085,534) in view of Young (U.S. Patent No. 4,226,039).

Art Unit: 3611

Eckstein et al. does not disclose attaching an easel to the flexible substrate.

Young shows in figure 1 the idea of attaching an easel (7) to a flexible substrate. In view of the teachings of Young it would have been obvious to one in the art to modify Eckstein et al. by attaching an easel to the flexible substrate since this would allow the substrate to be displayed in an upright and vertical manner which would allow the sheets placed within the pockets to be seen in a better manner.

Claims 3,6,7,13-15,17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young (U.S. Patent No. 4,226,039) in view of Able (U.S. Patent No. 6,349,491).

In regard to claim 3, Young does not disclose placing a grommet in each of the first and second mounting holes. Able shows in figure 1 the idea of placing grommets (40) in the first and second mounting holes. In view of the teachings of Able it would have been obvious to one in the art to modify Young by placing a grommet in each of the first and second mounting holes since this would help to prevent the flexible sheet from tearing in the area around the mounting holes. In regard to claim 6, Young does not disclose whether the flexible substrate is formed from polypropylene. Able discloses in column 5, lines 59-64, the idea of making the base 12 and sections 14 out of flexible polypropylene. In view of the teachings of Able it would have been obvious to one in the art to modify Young by making the flexible substrate out of polypropylene since this would create a stronger and more durable substrate. In regard to claims 7 and 13, Young does not disclose whether the file pocket is formed from a poly-sheet material. Able discloses in column 5, lines 59-64, the idea of making the base 12 and sections 14 out of flexible

Art Unit: 3611

polypropylene. In view of the teachings of Able it would have been obvious to one in the art to modify Young by making the pocket out of poly-sheet material since this would create a stronger and more durable pocket. In regard to claim 13, the substrate (2) is considered to include a "narrow" end. In regard to claim 14, Young shows in figure 2 a third mounting hole (13). In regard to claim 15, as broadly defined, a portion of the tab (29) can pivot slightly relative to the substrate (2). In regard to claim 17, Young does not disclose placing a grommet in each of the first and second mounting holes. Able shows in figure 1 the idea of placing grommets (40) in the first and second mounting holes. In view of the teachings of Able it would have been obvious to one in the art to modify Young by placing a grommet in each of the first and second mounting holes since this would help to prevent the flexible sheet from tearing in the area around the mounting holes. In regard to claim 18, Young does not disclose whether the flexible substrate is formed from polypropylene. Able discloses in column 5, lines 59-64, the idea of making the base 12 and sections 14 out of flexible polypropylene. In view of the teachings of Able it would have been obvious to one in the art to modify Young by making the flexible substrate out of polypropylene since this would create a stronger and more durable substrate.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Young (U.S. Patent No. 4,226,039) in view of Weber (U.S. Patent No. 759,946).

Young discloses the applicant's basic inventive concept except for making the easel in the form of a foldable triangular stand. Weber shows in figures 1-4 the use of a foldable triangular stand (1-5) for supporting a display device. In view of the teachings

Art Unit: 3611

of Weber it would have been obvious to one in the art to modify Young by making the easel in the form of a foldable triangular stand since this would allow the easel to be made in an easier and less expensive manner and would support the holder in a more stable manner.

Claims 3,6,7,13, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schweinsberg (U.S. Patent No. 4,085,535) in view of Able (U.S. Patent No. 6,349,491).

In regard to claim 3, Schweinsberg does not disclose placing a grommet in each of the first and second mounting holes. Able shows in figure 1 the idea of placing grommets (40) in the first and second mounting holes. In view of the teachings of Able it would have been obvious to one in the art to modify Schweinsberg by placing a grommet in each of the first and second mounting holes since this would help to prevent the flexible sheet from tearing in the area around the mounting holes. In regard to claim 6, Schweinsberg does not disclose whether the flexible substrate is formed from polypropylene. Able discloses in column 5, lines 59-64, the idea of making the base 12 and sections 14 out of flexible polypropylene. In view of the teachings of Able it would have been obvious to one in the art to modify Schweinsberg by making the flexible substrate out of polypropylene since this would create a stronger and more durable substrate. In regard to claims 7 and 13, Schweinsberg does not disclose whether the file pocket is formed from a poly-sheet material. Able discloses in column 5, lines 59-64, the idea of making the base 12 and sections 14 out of flexible polypropylene. In view of the teachings of Able it would have been obvious to one in the art to modify Schweinsberg

Art Unit: 3611

by making the pocket out of poly-sheet material since this would create a stronger and more durable pocket. In regard to claim 13, the substrate (2) is considered to include a "narrow" end. In regard to claim 15, as broadly defined, a portion of the tab can pivot slightly relative to the substrate (2). In regard to claim 16, Schweinsberg shows a fold line (11) for forming a label portion. In regard to claim 17, Schweinsberg does not disclose placing a grommet in each of the first and second mounting holes. Able shows in figure 1 the idea of placing grommets (40) in the first and second mounting holes. In view of the teachings of Able it would have been obvious to one in the art to modify Schweinsberg by placing a grommet in each of the first and second mounting holes since this would help to prevent the flexible sheet from tearing in the area around the mounting holes. In regard to claim 18, Schweinsberg does not disclose whether the flexible substrate is formed from polypropylene. Able discloses in column 5, lines 59-64, the idea of making the base 12 and sections 14 out of flexible polypropylene. In view of the teachings of Able it would have been obvious to one in the art to modify Schweinsberg by making the flexible substrate out of polypropylene since this would create a stronger and more durable substrate.

Response to Arguments

Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed Jan. 6, 2005 with regard to claims 19-26 have been fully considered but they are not persuasive.

Art Unit: 3611

The applicant argues that Young fails to include a first ply foldably connected to a second ply as required in claim 19. However, claim 19 fails to define that the first and second plies are foldably connected so this argument is moot.

Allowable Subject Matter

Claim 27 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (571) 272-6644. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3611

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


BRIAN K. GREEN
PRIMARY EXAMINER

Bkg
April 1, 2005